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**UTAH LABOR COMMISSION**

**THOMAS MICHAEL HEISLER,**

**Petitioner,**

**vs.**

**EG&G DEFENSE SYSTEMS INC.  
and AMERICAN HOME ASSURANCE  
COMPANY,**

**Respondents.**

**ORDER AFFIRMING  
ALJ'S DECISION**

**Case No. 07-0774**

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Thomas Michael Heisler asks the Utah Labor Commission to review Administrative Law Judge La Jeunesse's dismissal of Mr. Heisler's claim for benefits under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63G-4-301 and § 34A-2-801(3).

**BACKGROUND AND ISSUE PRESENTED**

On September 27, 2007, Mr. Heisler filed an application for hearing with the Commission to compel EG&G Defense Systems, Inc. and its insurance carrier, American Home Assurance Company, (referred to jointly as "EG&G") to pay for past and future medical care. Mr. Heisler alleged that this medical care was necessary to treat a back injury he had suffered while working for EG&G on October 14, 1999. In responding to Mr. Heisler's claim, EG&G asserted it had already paid for Mr. Heisler's past medical care and that no additional medical care was needed. EG&G also asked Judge La Jeunesse to dismiss Mr. Heisler's claim because he had not submitted any medical records or medical opinions showing that more medical care was required.

Mr. Heisler did not respond to EG&G's motion to dismiss. On December 14, 2007, Judge La Jeunesse granted the motion and dismissed Mr. Heisler's claim "without prejudice" on the grounds that Mr. Heisler had failed to submit the medical evidence that was necessary to support the claim.

Mr. Heisler now asks the Commission to review Judge La Jeunesse's decision. While Mr. Heisler's motion for review provides a general explanation of the circumstances surrounding his claim, Mr. Heisler still has not identified any medical evidence in the record that supports his claim for additional medical care.

**ORDER AFFIRMING ALJ'S DECISION**  
**THOMAS MICHAEL HEISLER**  
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**DISCUSSION AND CONCLUSION OF LAW**

There is no question that the Utah Workers' Compensation Act requires EG&G to pay for all medical care that is necessary to treat Mr. Heisler's work-related injuries. However, it is Mr. Heisler's obligation to submit medical evidence that shows he needs medical care. The obligation of an injured worker to provide such medical evidence is specifically addressed in the Labor Commission's Rule R602-1.B.3, as follows (emphasis added):

All Applications for Hearing shall include any available supporting medical documentation of the claim where there is a dispute over medical issues. Applications for Hearing . . . . **[A] respondent may file a motion to dismiss the Application for Hearing where there is no supporting medical documentation filed to demonstrate medical causation when such is at issue between the parties.**

Applying this rule to Mr. Heisler's case, the Commission agrees with Judge La Jeunesse that, because Mr. Heisler did not submit the required medical evidence to support his claim for additional medical benefits, it was appropriate to dismiss Mr. Heisler's claim. However, it is important for Mr. Heisler to note that, because his claim has been dismissed "without prejudice," he is entitled to refile his claim if and when he obtains the medical evidence that will substantiate and support the claim.

**ORDER**

The Commission affirms Judge La Jeunesse's dismissal of Mr. Heisler's application for hearing. It is so ordered.

Dated this 26<sup>th</sup> day of January, 2009.

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Sherrie Hayashi  
Utah Labor Commissioner

**NOTICE OF APPEAL RIGHTS**

Any party may ask the Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Labor Commission within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.